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TRANSMITTAL OF APPEAL BRIEF

Docket No.
SONYJP 3.0-106

In re Application of: Toshio Ozawa

Application No.
09/521,176

Filing Date
March 8, 2000

Examiner
D. D. Saltarelli

Group Art Unit
2611

Invention: PROGRAM DISTRIBUTION SYSTEM, METHOD OF PROGRAM DISTRIBUTION,
TRANSMITTER AND RECEIVER

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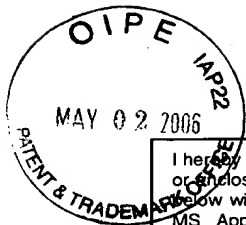
Dated: April 27, 2006

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Docket No.: SONYJP 3.0-106
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of:
Toshiro Ozawa

Application No.: 09/521,176

Group Art Unit: 2611

Filed: March 8, 2000

Examiner: D. D.
Saltarelli

For: PROGRAM DISTRIBUTION SYSTEM,
METHOD OF PROGRAM DISTRIBUTION,
TRANSMITTER AND RECEIVER

APPELLANT'S BRIEF ON APPEAL

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant hereby files this Brief to appeal from the final rejection of claims 1-3, 6-13, 16-23, 26-32, 35-38 and 40-49 mailed October 19, 2005, and the Advisory Action mailed February 3, 2006.

REAL PARTY IN INTEREST

The real party in interest for this appeal is Sony Corporation, 7-35, Kitashinagawa 6-chome, Shinagawa-ku, Tokyo, Japan, the Assignee of the above-referenced application.

RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to appellant, the undersigned counsel or the assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

STATUS OF CLAIMS

Claims 1-3, 6-13, 16-23, 26-32, 35-38 and 40-49 are pending in the present application. All of claims 1-3, 6-13, 16-23, 26-32, 35-38 and 40-49 are rejected, and all of claims 1-3, 6-13, 16-23, 26-32, 35-38, and 40-49 are the subject of the present appeal.

STATUS OF AMENDMENTS

An Amendment Under 37 C.F.R. § 1.116 was filed subsequent to the final rejection on January 23, 2006, and was entered by the Examiner.

SUMMARY OF CLAIMED SUBJECT MATTER

In this summary of the invention, reference is made to the specification and drawings for the convenience of the Board of Patent Appeals and Interferences. The description of certain preferred embodiments in the specification and drawings herein should be taken by way of illustration, rather than by way of limitation, of the features of the claimed invention.

The present invention is directed to a program distribution system (as set out in claim 1 and its dependent claims), a method of distributing programs (as set out in claim 11 and its dependent claims), a transmitter (as set out in claim 21 and its dependent claims), a receiver (as set out in claim 31 and its dependent claims), and a method of receiving programs (as set out in claim 37 and its dependent claims). (¶¶ [0001], [0007].)

The program distribution system, method of distributing programs, transmitter, receiver, and method of receiving programs of the invention address the need of allowing a user to more easily buy and view a pay-per-view program, also known as a video on demand (VOD) program. (¶ [0007].)

A digital satellite broadcasting system 1 includes a transmitter 10 located at its sending end and an integrated receiver decoder (IRD) 30 located at its receiving end. The transmitter 10 compresses plural channels of video and audio signals into plural bit streams, multiplexes the bit streams into transport stream packets, modulates the transport stream packets, and transmits the modulated data as a broadcast wave S10. The IRD 30 receives the broadcast wave, decodes a selected channel of audio and video from the multiplexed plurality of channels of the broadcast wave, and delivers a video signal and an audio signal to a display 85 and speaker of a monitor 80. (Fig.1; ¶¶ [0020]-[0023].)

A user provides a request for a video on demand (VOD) program by entering text in a free-style format using a keyboard 70 that is connected to an IRD controller 40 of the IRD 30. The IRD controller converts the request into a distribution request e-mail message Ereq by placing the entered free-style format text into a text field of the distribution request e-mail message Ereq and by addressing the distribution request e-mail message Ereq for delivery to a VOD controller 15 of the transmitter 10. The IRD controller transmits the distribution request e-mail message Ereq to the transmitter 10. (Figs. 1, 2, 4; ¶¶ [0030]-[0034], [0047].)

The VOD controller 15 of the transmitter 10, which serves as a distribution controller, receives the distribution request e-mail message Ereq. The VOD controller 15 compares the wording of the freestyle format text of the text field of the e-mail message Ereq to the titles of VOD programs stored in a video server 12 of the transmitter 10. The VOD controller determines whether one of the stored program titles is present in the freestyle format text of the text field of the distribution request e-mail message Ereq and sends an answer e-mail message Eans to the IRD 30. (Fig.3; ¶¶ [0035]-[0036], [0048], [0051].)

When a stored title of a VOD program is found in the free-style format text field of the distribution request e-mail message Ereq, the answer e-mail message Eans includes an indication that the program was found as the title of the program, the length of the program, the price of the program, accounting information on the program, cryptanalytic information, and a request for user confirmation. (Figs.3, 5; ¶¶ [0037]-[0038], [0048]-[0049].)

If the IRD controller 40 of the IRD 30 then receives an indication from the user that the user wishes to buy the program, the IRD controller 40 transmits a purchase agreement e-mail message Econf to the VOD controller 15 of the transmitter 10, and the VOD controller 15 controls the video server 12, which acts as a distributable program storing unit, to provide the VOD program to the multiplexer 13 for broadcast to the IRD controller 40. (Figs.1, 3; ¶¶ [0021], [0040]-[0043], [0049].)

The IRD 30 then obtains transport stream (TS) packets from the broadcast signal, deciphers the TS packets using the cryptanalytic information contained in the answer e-mail message Eans, and delivers the decrypted VOD program to either the monitor 80 or a video tape recorder (VTR) 90. (Figs.1, 3; ¶¶ [0044]-[0045], [0050], [0052].)

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The present issues are:

(i) whether the Examiner properly rejected claims 1, 3, 11, 13, 21, 23, 31, 32, 37, and 38 under 35 U.S.C. § 103(a) as being unpatentable over *Dunn* (U.S. Patent No. 5,721,829) in view of *Abecassis* (U.S. Patent Application Publication No. 2001/0041053), *Sartain* (U.S. Patent No. 5,914,712), *Venkatraman* (U.S. Patent No. 6,477,647), and *Hylton* (U.S. Patent No. 5,613,190);

(ii) whether the Examiner properly rejected claims 2, 6-8, 12, 16-18, 22, 26-28, 35 and 40 under 35 U.S.C. § 103 as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* as applied to claims 1, 11 and 21 and further in view of *Yurt* (U.S. Patent No. 5,550,863);

(iii) whether the Examiner properly rejected claims 9, 19, 29, 36 and 41 under 35 U.S.C. § 103(a) as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* as applied to claims 1, 11, and 21 and further in view of *Lawler* (U.S. Patent No. 5,805,763);

(iv) whether the Examiner properly rejected claims 10, 20, 30, 43, 45, and 47 under 35 U.S.C. § 103(a) as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, *Hylton*, and *Yurt* as applied to claims 6, 16, and 26 and further in view of *Lawler*; and

(v) whether the Examiner properly rejected claims 42, 44, 46, 48 and 49 under 3 U.S.C. § 103(a) as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, *Hylton*, and *Lawler* as applied to claims 9, 19, 29, 36, and 41 and further in view of *Yurt*.

ARGUMENT

A. Claims 1, 3, 11, 13, 21, 23, 31, 32, 37, and 38

Claim 1 and its dependent claim 3, claim 11 and its dependent claim 13, claim 21 and its dependent claim 23, claim 31 and its dependent claim 32, and claim 38 and its dependent 38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dunn* (U.S. Patent No. 5,721,829) in view of *Abecassis* (U.S. Patent Application No. 2001/0041053), *Sartain* (U.S. Patent No. 5,914,712), *Venkatraman* (U.S. Patent No. 6,477,647) and *Hylton* (U.S. Patent No. 5,613,190). For the purposes of the present discussion, the differences between the cited references and the invention defined by claim 1 are examined.

Claim 1 calls for:

said receiver being operable to accept a user request for a desired program, the user request being in a free style text format, to convert the user request into a distribution request e-mail message that includes the user request and that is addressed to said distribution controller of said transmitter, and to send the distribution request e-mail message to said transmitter[.]

(Emphasis added.)

As follows claim 1 further calls for:

said distribution controller being operable to receive the distribution request e-mail message addressed to said distribution controller, to determine whether the requested program is one of the stored plurality of distributable programs, to transmit an answer e-mail message to said receiver in response to the distribution request e-mail message, the answer e-mail message including a notice of correspondence and including supplemental information when the requested program is one of the stored plurality of distributable programs, the supplemental information including cryptanalytic information for decrypting the program, and to read out the requested program from said distributable program storing unit

when the requested program is one of the stored plurality of distributable programs[.]

(emphasis added.)

1. The Asserted Combination of *Dunn, Abecassis, Sartain, Venkatraman, and Hylton Does Not Disclose or Suggest "A Distribution E-Mail Message... That Is Addressed To A Distribution Controller Of Said Transmitter..."*

In the final Office Action dated October 19, 2005, the Examiner acknowledged that *Dunn* and *Abecassis* "fail to disclose converting the user request into a distribution request e-mail message that includes the user request and [that] is addressed to [a] distribution controller of [a] transmitter" but asserted that *Sartain* provided such a teaching. (Office Action 5-6, October 19, 2005). *Sartain*, however, describes a system in which:

Internet connection 650 relays subscriber selections which are made over the internet. In the preferred embodiment, an accounting service within the internet is provided (1) through an internet company (e.g., America On-Line, CompuServe, and the like), (2) through an e-mail address, or (3) through a World Wide Web page. This accounting service requests the selected video program identification number along with a credit card number. The credit card number is used for the charge associated with the selecting of the video program. Thus, computers within the subscribers' homes can be used to order and display video programs.

(col.10 ll.15-20 (emphasis added).) *Sartain* thus describes that the subscriber selections of video programs are relayed over the Internet to an accounting service using an e-mail address. The order e-mail message is therefore addressed to the accounting service rather than being addressed to an office 330 that sends the selected programs to the subscriber's television. (See also Fig.5.) Therefore, *Sartain* does not disclose or suggest an e-mail message addressed to a distribution controller.

The Examiner nevertheless further asserted that the

destination of the user requests, and thus the address of the e-mail request, is the external request gateway. (Office Action 6.) However, the external request gateway does not provide video programming. As Sartain further describes:

Two-way set-top box information 630 can be provided through [interactive voice response] IVR 600 and gateway 610 to office 330. In this arrangement, a two-way set-top box is used in conjunction with a remote control in a subscriber's home. The remote control and [the] prompts on the subscriber's television are used to select videos. The selection information is sent via RF signals to the company which provides the set-top box (e.g., a local cable company). This selection information is then provided to the remote site associated with the selecting subscriber's group and to office 330 via gateway 610. Office 330 uses this information for tracking video selections, etc. In an alternative embodiment, the selection information is sent by the set-top box provider to office 330, and in turn, office 330 sends the selection information to the remote site associated with the selecting subscriber's group. (Emphasis added).

(col.9 1.60 to col.10 1.7.) The external request gateway 610 provides user supplied video selection and related information to the office 330, and the office 330 in turn delivers the video programming to the user. Thus, even if the order e-mail message were to be addressed to the external request gateway, the order e-mail message is nonetheless not addressed to a distribution controller of a transmitter. (See also Fig.5.)

The Examiner also improperly argued that "there is no basis in asserting that an accounting service must inherently be remotely located and [a] separately managed entity from the office that provides the programming." (Office Action 2) However, the burden of factually supporting a *prima facie* conclusion of obviousness is on the Examiner and is not on the applicant. M.P.E.P. § 2142. Thus, the burden is on the Examiner to show that Sartain discloses or suggests a

distribution request e-mail message that includes the user request and *that is addressed to a distribution controller of a transmitter*. The burden is not on the applicant to prove that the accounting service must inherently be remotely located and must be a separately managed entity from the office that provides the programming.

It follows that *Sartain* does not disclose or suggest a distribution request e-mail message *that is addressed to a distribution controller of a transmitter*.

The Examiner also contended that "one of ordinary skill in the art, when presented with the *Dunn* and *Sartain* disclosures, would clearly see that the headend disclosed by *Dunn* would provide the accounting service necessary for tracking and billing orders for providing video programming, and thus the e-mail request sent to said accounting service is addressed to the office which provides the video programming." (Office Action 2) However, *Dunn* is not concerned with such tracking and billing functions and merely describes that:

Headend 22 provides both full length video content programs and associated previews (which are known as "trailers" in the film industry) to the user interface unit within each home. Headend 22 includes a continuous media server (CMS) 40 with a program and trailer storage 42 to store the programs and previews as digital video data streams in independent data files. Present designs of program and trailer storage 42 are expected to hold hundreds to thousands of full length programs and their trailers.

....

Headend 22 also has a database server 44 to store the programming information about each program and trailer. Database server 44 contains a structured query language (SQL) database 46 with program data records containing information relating to available movies, games, TV shows, or other programs. The SQL records reflect such things as the program title, cast members, director, rating, whether the program has closed captioning or stereo audio, length of program, scheduled time of the program, network name, program category, description text, and so forth. The program

information is used by the VOD application and other applications running on the STB (such as the electronic programming guide) to assist the viewer when previewing different programs.

....

A video content playing unit 48 is also provided at headend 22. Video content playing unit 48 is connected to both the CMS database and the SQL database via headend bus 50. Video content playing unit 48 locates and retrieves a desired video content program from the CMS database in response to a request from an STB which is operating in the VOD mode. The playing unit further controls the digital transmission of the video content program over the distribution structure 30 on the VOD channel to the requesting STB.

(col.3 1.43 to col.4 1.46 (emphasis added)). Dunn further describes that:

The "order" button 86 enables the user to order a video content program that corresponds to the displayed analog preview video trailer, without reverting to a blank order menu or the like. Suppose the viewer wishes to rent the program that is presently being previewed. The viewer simply actuates the overlaid "order" button 86 which causes the STB to send a message to the headend. This message contains some descriptor of the trailer (such as its ID or moniker) or some descriptor of the program (such as its ID or moniker) that corresponds to the trailer being depicted. Such descriptors are initially supplied to the STB as part of an information packet obtained from the SQL database when the VOD application is initiated. The descriptor is used by the CMS database to retrieve the full length video content program. The headend then transmits the full length video content program as a digital video data stream over the distribution network to the STB that ordered the program.

(col.5 1.24-41 (emphasis added)). Thus, Dunn merely teaches that the headend stores information regarding the available stored video programs and that the headend can retrieve and transmit requested video programs. Dunn neither discloses nor suggests to the ordinary practitioner that the headend carries out tracking and billing functions or other accounting

functions. In fact, the ordinary practitioner could not readily glean from *Dunn* whether such tracking and billing functions are carried out by the headend or, instead, are performed by the set-top box, such as in combination with an accounting service disposed at a further location.

In the Advisory Action mailed February 3, 2006, the Examiner further argued that "*Dunn* clearly establishes that an order for a video on demand program is sent from the set top box to the head end. As shown in Fig. 3 of *Dunn*, when a trailer for a video is displayed, the price [of] the program is one of the items of information displayed to the user. As shown in Fig. 5 and described in column 5, lines 16-41, an order for a displayed program, said display including the price of the program, is sent directly from the set top box to the head end." However, as set out above, *Dunn* merely describes that a viewer actuates an overlaid "order" button 86 when the viewer desires to rent a program. The actuation of the "order" button 86 causes the set top box to send a message to the headend. *Dunn* neither discloses nor suggests that the message is an e-mail message, and therefore *Dunn* neither discloses nor suggests converting a user request into a distribution request e-mail message that is addressed to a distribution controller of a transmitter.

The Examiner further argued in the February 3, 2006 Advisory Action that "*Sartain* discloses [that] the order for a program may take the form of an email message." However, as noted previously, *Sartain* only describes the transmission of an e-mail message addressed to an accounting service. *Sartain*, like *Dunn*, neither discloses nor suggests converting a user request into a distribution request e-mail message that is addressed to a distribution controller of a transmitter.

The Examiner erroneously concludes in the February 3, 2006 Advisory Action that "When the teachings of *Sartain* are applied to the system disclosed by the *Dunn*, the resulting system sends

an email message (as taught by *Sartain*) directly to the headend (as taught by *Dunn*). This is the *prima [facie]* case of obviousness set forth in the previous office action regarding the combination of *Dunn* and *Sartain*." However, as noted above, neither *Dunn* nor *Sartain* discloses or suggests a *distribution request e-mail message that is addressed to a distribution controller*, and therefore the Examiner has failed to show that the asserted combination of the cited references results in the elements set forth in claim 1. It follows that the Examiner has failed to establish a *prima facie* case of obviousness.

It should also be noted that *Venkatraman* describes an on-line trading system where the customer may opt to receive a confirmation e-mail message after completing a trade (col.2, 1.64 to col.3 1.3) and *Hylton* is concerned with providing wireless distribution of video and wide band information services throughout a location (col.3 1.30-33). Neither *Venkatraman* nor *Hylton* remedies the above deficiencies of *Dunn*, *Abecassis* and *Sartain*.

2. A Person of Ordinary Skill in the Relevant Art Would Not Look To Combine the Teachings of *Dunn* and *Sartain*

There is no motivation, no suggestion, and no teaching that would lead a person of ordinary skill in the relevant art at the time of the invention to combine the teachings of *Dunn* and *Sartain* in the manner asserted by the Examiner. As set out above, *Dunn* describes sending a message to a headend by *actuating an order button* and is not concerned with *sending an e-mail message*. Therefore, *Dunn* does not provide the ordinary practitioner with motivation for modifying *Sartain* to send an e-mail message to the headend. Also, though *Sartain* describes sending an e-mail message, *Sartain* accomplishes the ordering of VOD programs by sending the e-mail message to an accounting service. Therefore, *Sartain* likewise provides no motivation to

--the ordinary practitioner for modifying *Dunn* to send an e-mail message to a headend, i.e., *Sartain* provides no motivation for the ordinary practitioner to modify *Dunn* to send an e-mail message addressed to a distribution controller.

The Examiner nonetheless argues in the February 3, 2006 Advisory Action that "Applicant's arguments against *Sartain* for not specifying the destination address of the email to be a distribution controller and applicant's arguments against *Dunn* for not specifying the headend as performing accounting functions are not persuasive because *Dunn*, clearly states on no certain terms, that the order for a video on demand is sent directly from the set top box to headend which distributes the video on demand service." However, the Examiner's argument that *Dunn* sends the order to the headend is not pertinent because, as noted above, the order is not sent in the form of an e-mail message.

3. The Asserted Combination of *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* Does Not Disclose or Suggest "To Transmit an E-Mail Message to Said Receiver in Response to the Distribution Request E-Mail Message"

In the October 19, 2005 final Office Action, the Examiner relied on *Venkatraman* as teaching the transmission of confirmation e-mails to users. *Venkatraman* describes a trading system where a customer connects to an on-line trading company (OTC) web site, enters an e-mail address to which the customer receives trade confirmations, and then trades on-line. After the customer completes a trade, the OTC transmits an e-mail message to the customer that contains confirmation of the trade. (see Fig.3; col.2 1.64 to col.3 1.3, col.6 11.8-23, 39-54). The *Venkatraman* patent therefore describes an e-mail message that is sent in response to a customer trade. *Venkatraman* does not disclose or suggest transmitting an answer e-mail message in response to a distribution request e-mail message.

The *Dunn*, *Abecassis*, *Sartain* and *Hylton* references do not remedy the above deficiency of *Venkatraman*.

4. The Ordinary Practitioner Would Not Look to Combine the Teachings of *Venkatraman* With Those of *Dunn*, *Abecassis*, *Sartain*, and *Hylton*.

Venkatraman cannot be considered analogous art. *Venkatraman* is directed to the field of *confirming trade transactions* (see Abstract 1.1-3; col.1 11.7-8) and is not concerned with *program distribution*. MPEP § 2141.01(a). Thus, *Venkatraman* is in a different field of endeavor than that of the present application which is concerned with *distributing programs*. Further, *Venkatraman* describes an e-mail message that *confirms a completed trade* rather than an e-mail message that is *transmitted as an answer to a request e-mail message*.

Moreover, *Venkatraman* is not reasonably pertinent to *allowing a viewer to more easily buy and view video-on-demand programs*, the problem addressed by the program distribution system defined in claim 1.

In the Advisory Action mailed February 3, 2006, the Examiner nevertheless argued that "as *Sartain* introduces the use of email correspondence to perform electronic transactions and convey information regarding electronic transactions, *Venkatraman* becomes analogous art as well, teaching the same concept." However, *Venkatraman* explicitly discloses that the invention described therein relates to *confirming trade transactions* by transmitting secure electronic envelopes containing trade confirmations via the Internet and/or private network to a customer's e-mail address" (see Abstract 11.1-3; col.1 11.7-8) whereas *Sartain* explicitly discloses that "the invention relates to an arrangement for *distributing selected digital video programs* to a predetermined group of subscribers" (see Abstract 11.1-2; col.2 11.38-40 (Emphasis added).) It appears that the Examiner ignored the explicit disclosures set

out in *Venkatraman* and *Sartain* and, instead, relied on hindsight gained from the present application to broadly redefine the field of endeavors of the two references.

The Examiner also argued in the February 3, 2006 Advisory Action that "identifying the differences between the nature of said electronic transactions is irrelevant, because email transactions can convey information on practically anything." The Examiner apparently contends that a reference that discloses any use of an e-mail message would also suggest any other use of an e-mail message because e-mail messages "can convey information on practically anything." Clearly, such an overly broad reading of the art is well beyond what would be apparent to the ordinary practitioner.

It follows that neither *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, nor *Hylton*, whether taken alone or in combination, discloses or suggests the program distribution system called for in claim 1. Therefore claim 1 is patentably distinct and unobvious over the cited references.

Claim 3 depends from claim 1 and is distinguishable over the cited art for at least the same reasons.

Claim 11 is directed to a method of distributing programs and includes limitations similar to those called for in claim 1. Claim 11 is therefore patentably distinct and unobvious over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* at least for the same reasons.

Claim 13 depends from claim 11 and is distinguishable over the cited references for at least the same reasons.

Claim 21 defines a transmitter which includes limitations similar to those of the transmitter defined in claim 1. Claim 21 is patentably distinct and unobvious over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* for at least the same reasons.

Claim 23 depends from claim 21 and is distinguishable over the cited art at least for the same reasons.

Claim 31 is directed to a receiver having a controller that is operable in a manner similar to the receiver defined in claim 1. Therefore, claim 31 is patentably distinct and unobvious over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* at least for the same reasons.

Claim 32 depends from claim 31 and at least for the same reasons, is distinguishable over the cited art.

Claim 37 is directed to a method of receiving programs and calls for converting an e-mail message into a distribution request having limitations similar to those described above. Therefore, at least for the same reasons, claim 37 is also patentably distinct and unobvious over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton*.

Claim 38 depends from claim 37, and for at least the same reasons, is distinguishable over the references.

B. Claims 2, 6-8, 12, 16-18, 22, 26-28, 35, and 40

Claims 2, 6-8, 12, 16-18, 22, 26-28, 35 and 40 were rejected under 35 U.S.C. § 103 as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* as applied to claims 1, 11, and 21 above and further in view of *Yurt* (U.S. Patent No. 5,550,863).

Claims 2 and 6-8 depend from claim 1, claims 12 and 16-18 depend from claim 11, claim 22 and 26-28 depend from claim 21, claim 35 depends from claim 31, and claim 40 depends from claim 37. Therefore, each of claims 2, 6-8, 12, 16-18, 22, 26-28, 35, and 40 is distinguishable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton* at least for the same reasons set out above regarding their parent claims.

Yurt describes an audio and video transmission system in which a user accesses an item in a source material library by

(i) dialing a system access number and then entering the identification code of the item or (ii) logging onto a user interface and then providing an identification code, a title or other known facts of the item. (See Figs. 3, 4; col.11 11.1-7; col.13 11.37-58; col.14 11.34-51.) Therefore, Yurt does not remedy the above-described deficiencies of *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, and *Hylton*, and claims 2, 6-8, 12, 16-18, 22, 26-28, 35 and 40 are distinguishable over the cited art.

C. Claims 9, 19, 29, 36, and 41

Claims 9, 19, 29, 36, and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman* and *Hylton* as applied to claims 1, 11, and 21 and further in view of Lawler (U.S. Patent No. 5,805,763).

Claim 9 depends from claim 1, claim 19 depends from claim 11, claim 29 depends from claim 21, claim 36 depends from claim 31, and claim 41 depends from claim 37. Therefore, claims 9, 19, 29, 36 and 41 are each distinguishable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman* and *Hylton* at least for the reasons described above regarding claims 1, 11, 21, 31, and 37, respectively.

Lawler describes an interactive viewing system in which a user selects programs for display or for future recording. The programs are selected from a menu that is generated by an interactive station controller located at the user's station and shown on a display screen. The selection of a program causes the interactive station controller to either tune to the program, set a reminder tag, or set a record tag that may be stored locally or sent to a headend. (See Figs. 2, 4A-4B, 6 and 7; col.7 11.19-28; col.8, 11.12-17; col.10 11.30-64; col.11 11.7-31; and col.11 1.45 to col.13 1.12.) Lawler thus does not remedy the deficiencies of *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*

and *Hylton* that are described above, and claims 9, 19, 29, 36 and 41 are distinguishable over the cited art.

D. Claims 10, 20, 30, 43, 45, and 47

Claims 10, 20, 30, 43, 45, and 47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, *Hylton*, and *Yurt* as applied to claims 6, 16 and 26 and further in view of *Lawler*.

Claims 10 and 43 depend from claim 1, claims 20 and 45 depend from claim 11, and claims 30 and 47 depend from claim 21. Therefore, each of claims 10, 20, 30, 43, 45, and 47 are distinguishable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, *Hylton*, *Yurt*, and *Lawler* at least for the reasons described above regarding claims 1, 11, and 21.

E. Claims 42, 44, 46, 48 and 49

Claims 42, 44, 46, 48, and 49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dunn*, *Abecassis*, *Sartain*, *Venkatraman*, *Hylton*, and *Lawler* as applied to claims 9, 19, 29, 36 and 41 and further in view of *Yurt*.

Claim 42 depends from claim 1, claim 44 depends from claim 11, claim 46 depends from claim 21, claim 48 depends from claim 31, and claim 49 depends from claim 37. Therefore, claims 42, 44, 46, 48, and 49 are each distinguishable over *Dunn*, *Abecassis*, *Venkatraman*, *Hylton*, *Lawler*, and *Yurt* for at least the reasons set out above in connection with claims 1, 11, 21, 31, and 37.

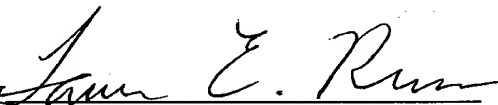
CONCLUSION

For the reasons discussed herein, Appellant requests that this Honorable Board reverse the rejections under 35 U.S.C. § 103.

If there are any additional charges in connection with this brief, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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APPENDIX A - CLAIMS

1. A program distribution system comprising:
 - a receiver; and
 - a transmitter including a distribution controller;
said receiver being operable to accept a user request for a desired program, the user request being in a free style text format, to convert the user request into a distribution request e-mail message that includes the user request and that is addressed to said distribution controller of said transmitter, and to send the distribution request e-mail message to said transmitter;
said transmitter including:
 - a distributable program storing unit operable to store a plurality of distributable programs,
said distribution controller being operable to receive the distribution request e-mail message addressed to said distribution controller, to determine whether the requested program is one of the stored plurality of distributable programs, to transmit an answer e-mail message to said receiver in response to the distribution request e-mail message, the answer e-mail message including a notice of correspondence and including supplemental information when the requested program is one of the stored plurality of distributable programs, the supplemental information including cryptanalytic information for decrypting the program, and to read out the requested program from said distributable program storing unit when the requested program is one of the stored plurality of distributable programs, and
 - a distributor operable to distribute the requested program to said receiver.

2. The program distribution system according to claim 1, wherein said distributable program storing unit is further operable to store an associated title for each of the plurality of distributable programs, and

said distribution controller is further operable to compare each word of the user request with each of the stored titles and to read out the requested program from said distributable program storing unit when the user request includes a title associated with one of the stored plurality of distributable programs.

3. The program distribution system according to claim 1, wherein said receiver is further operable to include a predetermined term in a subject field in the distribution request e-mail message, the predetermined term indicating that the distribution request e-mail message includes the user request.

4. (cancelled)

5. (cancelled)

6. The program distribution system according to claim 2, wherein the answer e-mail message includes the notice of correspondence when the user request includes a title associated with one of the stored plurality of distributable programs.

7. The program distribution system according to claim 1, wherein said receiver is further operable to transmit a confirmation e-mail message to said distribution controller in response to the answer e-mail message when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user of said receiver has agreed to purchase the requested program, said distribution controller reading out the requested program from said distributable program storing unit when said distribution controller receives the confirmation e-mail message.

8. The program distribution system according to claim 6, wherein said receiver is further operable to transmit a confirmation e-mail message to said distribution controller in response to the answer e-mail message when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user of said receiver has agreed to purchase the requested program, said distribution controller reading out the requested program from said distributable program storing unit when said distribution controller receives the confirmation e-mail message.

9. The program distribution system according to claim 1, further comprising a recorder connected to said receiver, and wherein the supplemental information includes a control command for causing said recorder to record the requested program.

10. The program distribution system according to claim 6, further comprising a recorder connected to said receiver, and wherein the supplemental information includes a control command for causing said recorder to record the requested program.

11. A method of distributing programs, said method comprising:

receiving, at a transmitter, a distribution request e-mail message from a receiver, the distribution request e-mail message being addressed to a distribution controller of the transmitter and including a user request for a desired program, the user request being in a free style text format;

determining whether the requested program is one of a stored plurality of distributable programs;

transmitting an answer e-mail message to the receiver in response to the distribution request e-mail message, the answer e-mail message including a notice of correspondence and including supplemental information when the requested program is one of the stored plurality of distributable

programs, the supplemental information including cryptanalytic information for decrypting the program;

reading out the requested program when the requested program is one of the stored plurality of distributable programs; and

distributing the requested program to the receiver.

12. The method according to claim 11, wherein an associated title is stored for each of the plurality of distributable programs, and said determining step includes comparing each word of the user request with each of the stored titles, and said reading out step reads out the requested program when the user request includes a title associated with one of the stored plurality of distributable programs.

13. The method according to claim 11, wherein the distribution request e-mail message includes a predetermined term in a subject field, the predetermined term indicating that the distribution request e-mail message includes the user request.

14. (cancelled)

15. (cancelled)

16. The method according to claim 12, wherein the answer e-mail message includes the notice of correspondence when the user request includes a title associated with one of the stored plurality of distributable programs.

17. The method according to claim 11, further comprising receiving a confirmation e-mail message from the receiver in response to the answer e-mail message when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user of the receiver has agreed to purchase the requested program, and wherein said reading step and said distributing step are carried out only when the confirmation e-mail message is received.

18. The method according to claim 16, further comprising receiving a confirmation e-mail message from the receiver in response to the answer e-mail message when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user of the receiver has agreed to purchase the requested program, and wherein said reading and said distributing step are carried out only when the confirmation e-mail message is received.

19. The method according to claim 11, wherein the supplemental information includes a control command for causing a recorder connected to the receiver to record the requested program.

20. The method according to claim 16, wherein the supplemental information includes a control command to cause a recorder connected to the receiver to record the requested program.

21. A transmitter, comprising:

a distributable program storing unit operable to store a plurality of distributable programs;

a distribution controller operable to receive a distribution request e-mail message addressed to said distribution controller from a receiver, the distribution request e-mail message including a user request for a desired program, the user request being in a free style text format, to determine whether the requested program is one of the stored plurality of distributable programs, to transmit an answer e-mail message to the receiver in response to the distribution request e-mail message, the answer e-mail message including a notice of correspondence and including supplemental information when the requested program is one of the stored plurality of distributable programs, the supplemental information including cryptanalytic information for decrypting the program, and

to read out the requested program from said distributable program storing unit when the requested program is one of the stored plurality of distributable programs; and

a distributor operable to distribute the requested program to the receiver.

22. The transmitter according to claim 21, wherein said distributable program storing unit is further operable to store an associated title for each of the plurality of distributable programs, and said distribution controller is further operable to compare each word of the user request with each of the stored titles and to read out the requested program from said distributable program storing unit when the user request includes a title associated with one of the stored plurality of distributable programs.

23. The transmitter according to claim 21, wherein the distribution request e-mail message includes a predetermined term in a subject field, the predetermined term indicating that the distribution request e-mail message includes the user request.

24. (cancelled)

25. (cancelled)

26. The transmitter according to claim 22, wherein the answer e-mail message includes the notice of correspondence when the user request includes a title associated with one of the stored plurality of distributable programs.

27. The transmitter according to claim 21, wherein said distribution controller reads out the requested program from said distributable program storing unit when said distribution controller receives a confirmation e-mail message that is sent by the receiver in response to the answer e-mail message when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user of the receiver has agreed to purchase the selected program.

28. The transmitter according to claim 26, wherein said distribution controller reads out the requested program from said distributable program storing unit when said distributable controller receives a confirmation e-mail message that is sent by the receiver in response to the answer e-mail message when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user of the receiver has agreed to purchase the requested program.

29. The transmitter according to claim 21, wherein the supplemental information includes a control command for causing a recorder connected to the receiver to record the requested program.

30. The transmitter according to claim 26, wherein the supplemental information includes a control command for causing a recorder connected to the receiver to record the requested program.

31. A receiver, comprising:

a controller operable to accept a user request for a desired program, the user request being in a free style text format, to convert the user request into a distribution request e-mail message that includes the user request and that is addressed to a distribution controller of a predetermined distribution unit, and to send the distribution request e-mail message to the predetermined distribution unit; and

a front end operable to receive an answer e-mail message sent by the predetermined distribution unit in response to the distribution request e-mail message, the answer e-mail message including a notice of correspondence and including supplemental information when the requested program is one of the stored plurality of distributable programs, the supplemental information including cryptanalytic information for decrypting the program, and

to receive the requested program from the predetermined distribution unit when the requested program is available from the predetermined distribution unit.

32. The receiver according to claim 31, wherein said controller is further operable to include a predetermined term in a subject field in the distribution request e-mail message, the predetermined term indicating that the distribution request e-mail message includes the user request.

33. (cancelled)

34. (cancelled)

35. The receiver according to claim 31, wherein said controller is further operable to transmit a confirmation e-mail message to the predetermined distribution unit when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user of said receiver has agreed to purchase the requested program.

36. The receiver according to claim 31, wherein the supplemental information includes a control command for causing a recorder connected to said receiver to record the requested program.

37. A method of receiving programs, said method comprising:

accepting a user request for a desired program, the user request being in a free style text format;

converting the user request into a distribution request e-mail message that includes the user request and that is addressed to a distribution controller of a predefined distribution unit;

sending the distribution request e-mail message to the predetermined distribution unit;

receiving an answer e-mail message from the predetermined distribution unit in response to the distribution request e-mail message, the answer e-mail

message including a notice of correspondence and including supplemental information when the requested program is one of the stored plurality of distributable programs, the supplemental information including cryptanalytic information for decrypting the program; and

receiving the requested program from the predetermined distribution unit when the requested program is available from the predetermined distribution unit.

38. The method according to claim 37, wherein the distribution request e-mail message includes a predetermined term in a subject field, the predetermined term indicating that the distribution request e-mail message includes the user request.

39. (cancelled)

40. The method according to claim 37, further comprising transmitting a confirmation e-mail message to the predetermined distribution unit when the answer e-mail message includes the notice of correspondence, the confirmation e-mail message indicating that the user has agreed to purchase the requested program.

41. The method according to claim 37, wherein the supplemental information includes a control command for causing a recorder record the received program.

42. The program distribution system according to claim 9, wherein the supplemental information includes accounting information for the program.

43. The program distribution system according to claim 10, wherein the supplemental information includes accounting information for the program.

44. The method according to claim 19, wherein the supplemental information includes accounting information for the program.

45. The method according to claim 20, wherein the supplemental information includes accounting information for the program.

46. The transmitter according to claim 29, wherein the supplemental information includes accounting information for the program.

47. The transmitter according to claim 30, wherein the supplemental information includes accounting information for the program.

48. The receiver according to claim 36, wherein the supplemental information includes accounting information for the program.

49. The method according to claim 41, wherein the supplemental information includes accounting information for the program.

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APPENDIX B - EVIDENCE

Not Applicable

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APPENDIX C - RELATED PROCEEDINGS

None

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